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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,846	07/24/2003	Patrick J. Whelan	9793-003	2650
20575	7590	08/05/2005		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER KEENAN, JAMES W	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/627,846

**Applicant(s)**

WHELAN, PATRICK J.

**Examiner**

James Keenan

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/23/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Coccaro (US 4,690,605, cited by applicant).

Coccaro shows a jack and dolly device for a vehicle tire comprising frame 14, first and second jaws 28, 30 with first ends movably coupled to the frame (jaw 28 is movable relative to frame portion 18, while jaw 30 is movable relative to frame portion 16; nothing precludes such an interpretation) and second ends having support wheels 69, 79, respectively, such that as the jaws are closed a vehicle tire placed between them is lifted, wherein only the support wheels and a "mobilization device" 41, 53 mounted to the frame touch a ground surface when the apparatus is in position to lift.

4. Claims 11 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coccaro in view of Weaver (US 1,674,813).

The mobilization device of Coccaro is not powered.

Weaver shows a jack which, after lifting a vehicle, is used as a dolly by utilizing powered driving wheel 16.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Coccoaro by powering the mobilization device, as shown by Weaver, as this would provide easier movement of the vehicle being lifted. Although Weaver utilizes a hand crank rather than a motor to power the wheel, it has been held that broadly providing mechanical or automatic means to replace manual activity involves only routine skill in the art.

Re claim 18, note rollers 300 of Coccoaro.

Re claim 19, the lever 194 and associated mechanism of Coccoaro is considered to be a "powered jaw closing mechanism", absent any structural limitations.

5. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coccoaro in view of Weaver, as applied to claim 11 above, and further in view of Mankey (US 4,596,300).

Coccoaro as modified does not show a remote control.

Mankey shows a powered moving mechanism which is coupled to a wheel or wheels of a vehicle otherwise unable to move on its own. As clearly seen in figure 1, it is remote controlled.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified Coccoaro by utilizing a remote control device, as

shown by Mankey, to enhance maneuverability by allowing control of the apparatus from the most desirable or convenient vantage point.

Re claim 13, Coccaro as modified does not show the mobilization device to comprise a chain linking first and second sprockets, although Weaver's system does utilize a generally similar sprocket/shaft gear system. Furthermore, Mankey shows the mobilization device to comprise motor 48 having an unlabeled but inherent shaft with sprocket 52, "wheel" 42 with sprocket 56, and chain 54 mechanically linking the sprockets. To have further modified the apparatus of Coccaro by utilizing a mobilization device having the features shown by Mankey would have been obvious, as this would simply be the use of a well known and art recognized means of delivering power.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coccaro in view of Weaver, as applied to claims 18-19 above, and further in view of Lotspeich et al (US 4,976,449).

Coccaro as modified does not show the jaw closing mechanism to comprise a threaded rod attached to corresponding receivers on the jaws.

Lotspeich et al shows a wheel dolly wherein opposed movable jaws are manipulated by rotating a threaded rod mounted in receivers.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Coccaro by utilizing a threaded rod mounted in receivers as the means of closing the jaws, as shown by Lotspeich et al, as this would simply be a well known alternate equivalent means of manipulating the jaws.

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As noted above, the use of a motor to replace manual activity is considered to require only routine skill.

7. Claims 15, 17, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Grignon (US 5,518,260).

Grignon shows a means for dollying a round object by closing opposed jaws 36 relative to jaws 26 to lift the object, and powered means 12 for moving the round object. Although not explicitly stated, since the powered means is a self-propelled truck, it is considered to inherently comprise a motorized wheel.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grignon in view of Coccaro.

Although Grignon shows a roller 38 on the jaws, it is not for supporting the object.

Coccaro shows that it is well known in the art to utilize rollers on opposed movable jaws for improving the ability of the jaws to pick up a round object.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Grignon by utilizing rollers on the jaws to support the round object, as shown by Coccaro, as this would reduce friction when picking up the object.

9. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grignon in view of Mankey

Grignon does not show a remote control device.

Mankey, as noted above, shows a remote controlled powered moving mechanism which is coupled to a wheel or wheels of a vehicle otherwise unable to move on its own.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Grignon by utilizing a remote control device, as shown by Mankey, to enhance maneuverability by allowing control of the apparatus from the most desirable or convenient vantage point.

Re claim 25, to have located the remote control inside the vehicle being maneuvered would be an obvious expediency if that was in fact the most desirable or convenient place in which to control the apparatus.

10. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grignon in view of Roman (US 5,049,025).

Grignon shows the movable jaws to be pivotally rather than slidably mounted on the frame.

Roman shows a similar apparatus wherein first and second jaws 2, 4 are slidably mounted relative to each other by being coupled to threaded rods 18.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Grignon by utilizing threaded rods for slidably mounting the jaws, as shown by Roman, as this would simply be an alternate equivalent means of performing the same function in the same environment, the use of which in the

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apparatus of Grignon would neither require undue experimentation nor produce unexpected results.

Regarding claims 4-5, the use of a motor fixedly engaged to a wheel for powering the device, if not inherent in Grignon, is considered an obvious design expediency.

Re claims 7-9, note that when the wheel of the vehicle is lifted, only caster mounted "main support wheels" 50, 52 and the mobilization device contact the ground.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grignon in view of Roman, as applied to claim 1 above, and further in view of Mankey.

Grignon as modified by Roman does not show details of the mobilization device.

Mankey, as noted above, shows the powered mobilization device to comprise motor 48 having a shaft with sprocket 52, "wheel" 42 with sprocket 56, and chain 54.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Grignon by utilizing a mobilization device having the features shown by Mankey, as this would simply be the use of a well known and art recognized means of delivering power.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

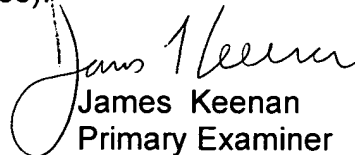


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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
8/3/05